

UPPER CLARK FORK STEERING COMMITTEE

MINUTES – March 2, 2000

MEMBERS PRESENT:

Gerald Mueller	<i>Facilitator</i>	Jim Dinsmore	<i>Granite C.D.</i>
Bob Benson	<i>C.F. Pend Oreille Coalition</i>	Ole Ueland	<i>Mile High C.D.</i>
Brent Mannix	<i>N. Powell C.D.</i>	Kathleen Williams	<i>FWP</i>
John Vanisko	<i>Deer Lodge Valley C.D.</i>	Jim Quigley	<i>Little Blackfoot</i>
Gary Ingman	<i>MT DEQ</i>	Liz Smith	<i>Deer Lodge</i>

MEMBERS ABSENT:

Rep Doug Mood	<i>Seeley Lake</i>	Robin Bullock	<i>ARCO</i>
Robert Orr	<i>Lewis & Clark C.D.</i>	Don Peters	<i>MT DFW&P</i>
Mike Griffith	<i>Lewis & Clark Co.</i>	Jules Waber	<i>Powell County</i>
Michael Kennedy	<i>Missoula County</i>	Martha McClain	<i>Missoula C.D.</i>
Holly Franz	<i>PP&L Montana LLC</i>	Eugene Manley	<i>F.C. & MWRA</i>
Audrey Aspholm	<i>Anaconda/Deer Lodge County</i>	John Sesso	<i>Butte-Silver Bow</i>

VISITORS PRESENT:

Ethan Hasenstein	<i>Five Valleys Land Trust</i>	Susan Sabage	<i>NRCS</i>
Jim Berkey	<i>Five Valleys Land Trust</i>	John Blaine	<i>NRCS-Missoula</i>
Mike Suplee	<i>MT DEQ</i>	Gail Jones	<i>Powell Co.</i>
Mike McLane	<i>DNRC</i>	Mary Seccombe	<i>UCFRB Advisory Comm.</i>
Shannon Voss	<i>DNRC</i>	Jim Flynn	<i>UCFRB Advisory Comm.</i>
Barry Duff	<i>ARCO</i>	Chris Brick	<i>Geology Dept. U of M</i>
Roxann Lincoln	<i>Self</i>	Will McDowell	<i>Tri-State Wtr Quality</i>
Nancy Sweeney	<i>NRCS</i>	Vicki Watson	<i>U of M</i>
Carol Fox	<i>NRDP-Helena</i>	Greg Mullen	<i>NRDP-Helena</i>

The Upper Clark Fork River Basin Steering Committee met Thursday, March 2, 2000, in St. Mary's Center, Deer Lodge, MT.

WELCOME:

Gerald Mueller welcomed Committee members and visitors and called the meeting to order. The agenda for the meeting was as follows:

1. Watson NRD Proposal
2. Five Valleys Land Trust Project
3. Work Plan
4. NRD Update

The *Minutes* for the January 27, 2000 meeting were discussed and approved.

ANNOUNCEMENTS:

Mike Suplee would like to co-host a public meeting with the Upper Clark Fork Steering Committee to generate feedback from the public concerning the revised 303d list for impaired streams.

It was suggested that a dry-run be presented at the next Steering Committee to prepare for the meeting.

Gerald Mueller announced that we will aim at holding the public meeting on Thursday May 18. We will have a dry-run at our next steering committee meeting.

Mike McLane suggested we talk about the assessment results of the 303d list, but also focus on what people are doing to improve those streams so it becomes “proactive”.

Gary Ingman agreed with Mike, saying we should de-emphasize the decision criteria and how we determined that a stream was impaired, and we should place more emphasis on how we might involve landowners and local groups in addressing stream improvement.

Roxann Lincoln suggested we present these results as a package deal and focus on the positive involvement between groups and what they are working on throughout the State.

Gerald also announced that Steve Fry called him and said the Federal Energy Regulatory Commission (FERC) has issued the licenses for the Cabinet Gorge Dam and Noxon Rapids Dam owned by Avista. In doing so, FERC didn't acknowledge the negotiations going on between Avista and the State of Montana concerning the temporary closure of the Upper Clark Fork River and the lack of available water to meet demanding water rights. Steve is interested in knowing if this will have an impact on negotiations and future public discussion.

Mike McLane said he doesn't know what implications the licensing has on the basin closure, but that it is possible a separate water right/water management agreement might still be met between Avista and the State.

Gerald restated that the license issue is closed but the water right issues are still critical.

WATSON NRD PROPOSAL:

Vicki Watson, U of M, wants to ask for the Steering Committee's endorsement. The U of M would like to continue to be involved in the remediation of the Upper Clark Fork Basin. The University has been involved throughout the Superfund and Natural Resources Damage Assessment process. They've been involved in studying the problems and trying to find solutions to them. She passed out a

list they are proposing to NRDP that explains some of the ways the University can be helpful including:

1. Evaluating the condition of the basin and it's potential for restoration—including educating people in non-technical terms about the condition.
2. Assist in planning smart, measurable, attainable results for long-term management.
3. Analyze possible conflicts between projects as well as opportunities for better projects through coordination with other initiatives.
4. Propose an overall monitoring plan. Work with landowners to assist them in monitoring as well.
5. Identify gaps in crucial information needed to successfully guide the restoration process. Identify new options arising from new science or technology.
6. Organize UM volunteers to assist with re-vegetation and other labor-intensive jobs.

The University would like to evaluate and point out conflicts, and recommend alternatives based on feasibility and effective planning.

The overall goal of the University is to help to build a comprehensive plan within the next few years—working on highest priorities first. They would continue to solicit the individual projects and then evaluate in the context of a larger picture. This year they will evaluate the Clark Fork's condition and potential, zeroing in on small objectives. They will keep in mind the question, “what are we trying to accomplish?”

Gerald stated that John Sesso wasn't able to be here, but wanted to share two concerns:

1. One concern he shares with Butte Silverbow is about funding research—don't want to spend money on research, but focus more on specific projects.
2. Another concern is to set some sort of precedent. People who think they have a good idea would come here and lobby for Committee support, hoping that the Steering Committee would lobby on their behalf.

Vicki said there is a need for research to the extent that it helps with the planning and monitoring process in order to obtain a desired outcome. U of M is quite happy to provide a feasibility and effectiveness analysis to coincide with any research. They don't want to try and carry out these projects without some planning in advance. Most of these problems aren't a one-time fix and need monitoring to assist in the restoration process.

John Blaine, NRCS Missoula, agrees that there needs to be monitoring in the big plan. He said that once NRC have the plan put together and the money secured, the U of M would be quite helpful in the monitoring process off the corridor. For three years you can get \$15,000/year of Federal Equip dollars to do the monitoring with the landowners. The NRCS and Conservation Districts don't have enough people to work with landowners. Their biggest problem is that they get the restoration projects started but then they need help.

Liz Smith asked Vicki who makes the final decision for projects?

Vicki said that ultimately the U of M will decide the proposals but NRDP will accept or reject them. U of M would put the proposals together using the ideas and priorities set by the local people. So if the proposals look good, then they should have a good chance of being accepted.

Ole brought up the idea that NRDP seems to be very tightly closed because they won't use the restoration money, to fix up private land but most of the land is privately owned. So how will all of this work together?

Jim Dinsmore said Ole has a good point and that there must be cooperation from private landowners—which in turn will hopefully bring benefits to their land also. He stressed that Public Relations need to be involved with this so people understand what is going on and will cooperate.

Jim also said that the Conservation Districts want to be involved also, but that they are in the process of defining themselves and their possible role in this process. At some point it might be helpful for Vicki to talk to the Conservation Districts to correlate their efforts.

Barry Duff, ARCO, said that ARCO will be required to monitor the basin and will also be funding programs (such as one through DEQ) to monitor. He said that it makes sense to have a group such as the U of M to look at the whole picture on an ecosystem basis.

FIVE VALLEY LAND TRUST:

Jim Berkey and **Ethan Hasenstein** of Five Valley Land Trust presented their project to the Steering Committee.

Jim B. explained that 80% of the reason why they came was to find out who the Steering Committee is with the hope of finding some compatibility between what they are doing and what the committee is doing.

He first explained that a *land trust* is a nonprofit organization who works with private landowners to find some common ground between the Land Trust Conservation's goals and the private landowners desire about how they want their land to be in the future. The land trust typically works through a *conservation easement*, which is a cooperative legal agreement between the trust and the landowner to identify some rights that the landowner will sell or donate to the land trust, and in turn be assured those rights will be protected in the future.

Jim B. said that more often than not Five Valleys Land Trust (FVLT) operates on a basis where the landowners give them a call. Landowners are usually concerned with development and want to be reassured their ranch stays intact and in their family's name. There are a lot of aspects written into easements that specify what is allowable. Some examples of what a landowner might be giving up is subdividing the parcel, doing multiple developments on the

property, or doing something that would critically impair the conservation easement objective or intent. The legal document is co-authored by the land trust and the landowner—and eventually the trust is the guardian of those rights. In addition to protecting their family’s land, there are distinct economical benefits for the landowner as well, giving them a tax deduction from donating some rights.

Jim B. explained that the Five Valleys River Parks Association was founded in 1972 and became a trust in 1989, then expanded again in 1995. They have been shifting their focus areas a little, and has recently been looking at the Clark Fork River Corridor. They are trying to learn more about the Upper Clark Fork and what individuals’ concerns are.

Ethan emphasized that they are not connected with NRDP and do not want any of the restoration money. They are trying to identify focus regions within the state where they can develop partnerships with landowners, agency staff, and other organizations that are active in the area, and conduct outreach with landowners.

These focus regions typically arise from a concern. We would ideally like to get networks of easements and networks of private landowners working together in the basin.

Jim B. and Ethan are trying to collect information on landuse resources, land ownership, important stretches of river, agricultural lands, wildlife habitat, riparian habitat, wetlands, and upland habitat. They are trying to synthesize all of this information and get a better picture of what’s going on in this basin.

Ethan said that their niche is long-term conservation, estate planning and other tax-incentive and technical management services.

John Vanisko asked where they get funding to pay for their salaries.

Ethan said he is a student. Jim’s salary is funded 70% by community support, fundraisers, and the remainder is funded by mostly regional (and some national) foundations. He emphasized that they are not billing you, they are working with you.

Brent Mannix asked what they do about their enforcement of regulations associated with an easement?

Jim B. said they continue to monitor the easement annually. Federal law requires inspection and enforcement of easement values as a requirement to provide tax breaks. FVLT sees themselves as resource conservationists (not police). They approach landowners by visiting with them, and hope that it will be low maintenance to enforce the easement.

Barry Duff mentioned that one of the goals of FVLT is to improve habitat. He asked if they plan projects to improve habitat or just try to maintain what is already there?

Jim B. said they will try to preserve what is there because of the small staff and lack of budget. They can try to connect the landowners with other programs that will help them restore, though.

NRD RESTORATION PLAN PROCEDURES:

Carol Fox talked about the UCFRB restoration settlement money. She began by first explaining the response to the comments the committee submitted to fund projects. The changes are as follows:

1. No money should be spent outside of the Upper Clark Fork River Basin. There is a very narrow restriction for native trout restoration in the Big Blackfoot River—and that will only apply if restoration cannot occur in the upper basin from a practical or economic standpoint.
2. We will not merge the UCFRB Remediation and Restoration Advisory Council with the Trustee Restoration Council. However, the chairman of the Advisory Council, Jim Flynn, will be a voting member of the Trustee Restoration Council. These are to remain separate for legal reasons, to maintain efficiency, and to serve as a check and balancing system.
3. There is a need for specific goals and a comprehensive plan. This comprehensive plan was not specified in this document, but we are looking at ways to set out general mission statements and goals yet not interfere with the ongoing litigation the State has with immediate sites or pending remedy decisions.
4. A group may submit a project development grant proposal if they don't have enough money to research a final proposal, yet think they have a really good proposal.

Carol passed out a handout titled *Overview of Upper Clark Fork River Basin Restoration Fund Grant Applications* which she reviewed with the Steering Committee. She said there are three types of eligible projects:

1. Restoration projects.
2. Planning projects (where there is not enough money to support a good idea).
3. Monitoring and research.

She mentioned that April 14 is the deadline for grants. Money will be available in 2001.

Carol pointed out that NRDP will follow certain criteria for deciding projects (a more detailed list appears on her handout):

1. **Pilot Year Priority Criteria** –apply to all proposals. Must demonstrate why funding is critical this year rather than in subsequent years.
2. **Stage 1 General Legal Criteria** –apply to all proposals

3. **Stage 2 General Policy Criteria** –apply to all proposals
4. **Stage 2 Land Acquisition Criteria** –apply only to proposals involving the acquisition of land or interests in land for State ownership.
5. **Stage 2 Monitoring and Research Criteria** –apply only to proposals involving monitoring or scientific research.

She explained that applicants requesting \$10,000 or less can submit a *short form* which then follows a less-lengthy list of criteria. However, few people have expressed interest in submitting a short form.

Carol mentioned that the State will pay for projects on a reimbursement basis because they want to make sure the money is spent on what it is supposed to be.

Gerald asked when we will be done restoring the Upper Clark Fork River Basin?

Carol said the overriding goal is to restore the natural resources in the basin to their baseline conditions before all of this happened. She then mentioned that the money will most likely run out first. Ultimately, multi-million dollar projects will have to be broken down into small sub proposals so they don't dig into all of the interest.

Roxann mentioned that numerous grant programs are already going on. It's not uncommon for a project to take three years to be completed. Perhaps they could look at other projects.

Carol said that they have found similar flowcharts for similar grants which they are comparing to. However, this funding source is larger so it's difficult to decide what to do with multi-million dollar projects.

WORK PLAN:

The Steering Committee reviewed and approved Gerald's draft of the committee's work plan.

Gerald mentioned that completing Fred Burr and Racetrack Pilots in 2001 were some of the committee's tasks for Voluntary Water Quality Management Planning. He didn't take Fred Burr Creek off the list even though right now it is a dead issue. **Jim D.** suggested removing Fred Burr Creek from the Work Plan. Racetrack may or may not need to come off the list also. The committee suggested looking into the Little Blackfoot, Loss Creek, and Rock Creek near Garrison as possible future projects.

Gerald wants to continue drought planning. He met with Eric Rieland, and thinks that the dewatering on Racetrack needs to be addressed. Eric says there are two canals that leak a lot, and they would like to measure how much leakage there is and determine if it is possible and feasible to fix this. They also need to determine if the water retained could then help with the dewatering problem. We would need Dennis Workman (or somebody else) to map the

canals, map the water rights, find the areas that are leaking and measure how much they are leaking.

Gerald said that our water storage goal is to focus more on the status of existing projects. We need an inventory of the status of existing projects and determine if there are projects that we are missing that need to be addressed.

The groundwater study needs to be finished. Martha Kaufman visited and explained her Flint Creek Return Flow model. We are trying to get the Bureau of Reclamation to tell us what they've done with respect to the return flow model.

NRD Remediation Planning and Continuing Education About Water Law and Water Issues are both continual projects to address.

Assessing Implication of Water Rights Adjudication Implementation is something that Eugene has talked about for a long time. What's going to happen when all of these basins are tied together? The Avista situation is sort of a first glance at that. We need to start thinking about this.

Gerald said since the committee approves this work plan, he will put together a grant request for the Watershed Assistance Grant to help support the committee. Our money is getting close to running out.

Gary suggested we propose getting grant money from NRDP using the short form application for \$10,00 or less, and use the money for drought restoration. There is no end for opportunities in this area.

Next Meeting:

The next meeting will be held at St. Mary's Center in Deer Lodge, on April 6, 2000, at 9:30 a.m.

Possible speakers and topics for the next agenda include:

1. Scott Brown from EPA
2. Bureau of Reclamation
3. NRD grant
4. An endangered species update in the basin (Fish and Wildlife service)
5. A dry-run of TMDL issues (Mike Suplee and Gary Ingman)